

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA HEATH and ANDY HEATH,)	
)	
Plaintiffs,)	
)	
v.)	FILE NO. 1:08-CV-03665-JOF
)	
WAL-MART STORES, INC.)	
)	
Defendant.)	

PLAINTIFF'S INITIAL DISCLOSURES

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including Plaintiff's contentions as to what Defendant did or failed to do, and a succinct statement of the legal issues in the case.

Brief Statement of Facts

Plaintiffs brought this action for personal injury arising out of slip and fall which occurred on March 17, 2008 in Defendant's Walmart Cartersville store while Plaintiff Donna Heath was shopping. Unbeknownst to Plaintiff Donna Heath, there was a spill of blue detergent on the floor of Defendant's premises. This spill was present for at least ten minutes while numerous Walmart employees walked by the area. One employee was working in the area within several feet of

the spill. Plaintiff Donna Heath rounded a corner of one of Defendant's aisles, slipped in the liquid and fell on her knee. She fractured her patella into so many pieces that it could not be repaired but instead had to be surgically removed. As a result, Donna Heath has permanent impairment and lost her job. She has significant past, present and future pain and suffering.

Specific Acts of Negligence

Plaintiff contends that the Defendants were negligent and negligent per se in the following particulars:

- a) Failure to keep premises safe (O.C.G.A. § 51-3-1); and
- b) Ordinary Negligence (O.C.G.A. § 51-1-2)

Legal Issues

The legal issues in the case are negligence, proximate cause and damages.

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which Plaintiff contends are applicable to this action.

See paragraph 1 above. In addition, Defendants' actions are governed by the standards expressed in *Robinson v. Kroger Co.*, 268 Ga. 735, 493 S.E.2d 403 (1997) and its progeny.

(3) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (See Attachment A hereto).

(4) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P.26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (See Attachment B hereto).

(5) Provide a copy of, or a description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (See Attachment C hereto).

(6) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying as under Fed.R.Civ.P. 34.

(Attach any copies and descriptions to Responses to Initial Disclosures as Attachment D).

(7) Attach for inspection and copying as under Fed.R.Civ.P.34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

(Attach copy of insurance agreement to Responses to Initial Disclosures as Attachment E.)

(8) Disclose the full name, address, and telephone number of all person or legal entities who have a subrogation interest in the cause of action set forth in Plaintiff's cause of action and state the basis and extent of such interest.

This 9th day of February, 2009.

TISINGER VANCE, P.C.

/s/ Kenneth B. Crawford .
Kenneth B. Crawford
Georgia Bar No. 194103
Attorneys for Plaintiff

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ATTACHMENT A

1. Andy Heath
P.O. Box 306
White, Georgia 30184

Mr. Heath may be called to testify as to his wife's injuries and damages, and to his loss of consortium claim.

2. Donna Heath
P.O. Box 306
White, Georgia 30184

Donna Heath may be called to testify about the slip and fall incident, her injuries, her pain and suffering, her special damages, and her husband's loss of consortium.

3. Courtney Bagley
32 Cass Station
Cassville, Georgia

Ms. Bagley was an eyewitness to the slip and fall and is familiar with Mrs. Heath's injuries.

4. Walmart Stores East, LP

A representative of this company may be called to testify as to the security system in the store, training of employees and the company policies and procedures.

5. Christopher Lee

Mr. Lee was an after-witness to the slip and fall.

6. Walmart Employee Shirley Gunn

Ms. Gunn is believed to be a Walmart employee who was in the immediate vicinity prior to when Mrs. Heath fell and who should have seen the blue detergent on the floor prior to the fall.

13. Robert Yarbrough, M.D.
15 Medical Drive
Cartersville, Georgia 30121

Dr. Yarbrough may be called testify as to the nature of Plaintiff's condition following the accident, her treatment and follow up.

14. Teresa Burnette
Cartersville Family Medical Center
17 Collins Drive
Cartersville, Georgia 30120

Ms. Burnette was the office manager where Plaintiff worked before she was terminated.

15. Heidi Ozawa Contractor, PT, MSPT, OCS, ATC
Diane Parker, ATC
Georgia Bone & Joint Surgeons, P.C./Center for Orthopedic Surgery/Center
for Physical Therapy and Sports Medicine
15 Medical Drive
Cartersville, GA 30121-8005

The physical therapists may be called to testify as to the physical therapy given to Plaintiff Donna Heath.

16. Bartow County EMS Personnel

Bartow County EMS personnel will testify as to the emergency care given to Plaintiff Donna Heath at the scene.

17. Donna L. Miles, M.D.
Cartersville Medical Center
960 Joe Frank Harris Parkway
Cartersville, Georgia 30120

Dr. Miles may be called to testify as to the emergency care she gave Plaintiff Donna Heath on the day of the accident.

18. Heather Clement, RN
Magie Morton, RN
Michelle Steele, LPN
Cartersville Medical Center
960 Joe Frank Harris Parkway
Cartersville, Georgia 30120

Nurses Heather Clement, Magie Morton and Michelle Steele may be called to testify as to the emergency care they gave Plaintiff Donna Heath on the day of the accident.

ATTACHMENT B

No experts have been identified at this time. Treating medical professionals may testify concerning their treatment and opinions concerning Plaintiff's present and future medical conditions. Plaintiff may identify an expert on the long-term effects of the injury Donna Heath received, her lost wages or vocational retraining.

ATTACHMENT C

1. Medical Records from Bartow County EMS;
2. Medical Records from Cartersville Medical Center
3. Medical Records from Georgia Bone & Joint Surgeons, P.C./Center for Orthopedic Surgery/Center for Physical Therapy and Sports Medicine;
4. Pharmacy Records from Walmart Pharmacy;
5. Employment Records from Cartersville Family Medicine;
6. Walmart video surveillance of accident;
7. Photographs of the substance Donna Heath slipped and fell in;
8. Medical bills from all providers.

ATTACHMENT D**MEDICAL EXPENSE SUMMARY**

<u>PROVIDER</u>	<u>DATE</u>	<u>AMOUNT</u>
Cartersville Medical Center		
Dr. Yarbrough		
Dr. Donna Miles	03/17/08	1,372.55
	03/18/08-	
	03/20/08	24,641.30
		<u>26,013.85</u> \$ 26,013.85
Georgia Bone and Joint	03/17/08-	
Surgeons (Dr. Yarbrough)	05/22/08	6,301.00 \$ 6,301.00
Southeast Anesthesia	04/25/08	868.00
	06/03/08	868.00
		<u>1,736.00</u> \$ 1,736.00
Superior Orthotics and		
Prosthetics	03/28/08	43.00 \$ 43.00
Bartow County EMS	03/17/08	528.22 \$ 528.22
Cartersville Emergency		
Physicians	03/17/08	439.00 \$ 439.00
Kroger	03/17/08	19.09
	06/02/08	6.40
	08/27/08	37.99 \$ 63.48
Wal-Mart	03/17/08	19.46
	03/19/08	172.62
	03/20/08	113.85
	04/30/08	19.62
	05/01/08	119.36
	05/12/08	44.32
	05/22/08	23.46
	09/20/08	19.46
		<u>532.15</u> \$ 532.15
TOTAL		\$ 35,656.70

ATTACHMENT D, CONTINUED

LOST WAGES SUMMARY

<u>Type of Wages</u>	<u>Dates</u>	<u>Rate per Hour</u>	<u>Weeks</u>	<u>Wages Lost</u>
Regular Hours (40 hours)	3/17/08 - 2/6/09	\$9.00	50	\$ 18,000.00

ATTACHMENT E

We do not yet have copies of insurance agreements.

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the within and foregoing PLAINTIFFS' INITIAL DISCLOSURES upon counsel of record by electronic means.

This the 9th day of February, 2009.

TISINGER VANCE, P.C.

/s/ Kenneth B. Crawford.
Georgia Bar No. 194103
Attorneys for Plaintiff

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